

DETAILED ACTION

Status of Claims

1. This action is in reply to the Request for Continued Examination filed on August 17, 2009.
2. Claims 1-45, 48, 49, 55-62, 73, and 83 have been canceled.
3. Claims 46, 65, and 66 have been amended.
4. Claims 85-87 have been previously subjected to a Restriction by Original Presentation. Applicant has amended these claims.
5. Claims 46, 47, 50-54, 63-72, 74-82, and 84 are currently elected for consideration.

Previous Claim Objections

6. The previous objections to Claims 69 and 73 are withdrawn because Claim 73 has been canceled.

Restriction by Original Presentation

7. As explained in the previous office action, Claims 85-87 were restricted by original presentation. Accordingly, Claims 85-87 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

8. Examiner would like to point out that the Supreme Court in *KSR International Co. v. Teleflex Inc.* described seven rationales to support rejections under 35 U.S.C. 103:
 - Combining prior art elements according to known methods to yield predictable results;
 - Simple substitution of one known element for another to obtain predictable results;
 - Use of known technique to improve similar devices (methods, or products) in the same way;
 - Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;

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- "Obvious to try" –choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; and
- Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

Prior art is not limited just to the references being applied, but includes the understanding of one of ordinary skill in the art. The prior art reference (or references when combined) need not teach or suggest all the claim limitations; however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. The "mere existence of differences between the prior art and an invention does not establish the invention's nonobviousness." see *Dann v. Johnson*, 425 U.S. 219, 230 (1976).

9. Regarding the Restriction by Original Presentation, Claims 85-87 have been withdrawn and the restriction stands.

10. Applicant has argued that there are distinctions between the references and the claimed invention. However, before comparing the claimed invention to the art it is important to construe the claims. Claim 46 includes the following limitations:

- (A) notifying the second party of a self-audit of the asset;
- (B) requiring the second party to use a machine to electronically read encrypted data from at least one electronically-readable identification tag associated with the self-audit;
- (C) requiring the second party to send audit information based on the encrypted data to the first party;
- (D) evaluating the audit information to determine if the second party is complying or not complying with the finance agreement based on the audit information; and
- (E) wherein the step of evaluating the audit information being performed by a computer.

11. Regarding limitation (A), who or what notifies the second party of the self-audit? Regarding limitation (B), who or what requires the second party to read the encrypted data from a tag? Does the second party actually read the data? Regarding limitation (C), who or what requires the second party to send audit information to the first party? What is the audit information? Is this any information that relates to an audit? Based on the language, this information could be the name of the asset(s). Regarding limitations (D) and (E), whose computer is used to evaluate the audit information? Limitation (D) states "to determine if the second party is complying or not complying with the finance agreement." Because,

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assuming there is an agreement, there must be compliance or non-compliance, the limitation does not require that anything be determined. Should this limitation mean that it is determined whether the second party is complying with the finance agreement? Also, this limitation states "to determine." Therefore, the claim does not require that anything is actually determined.

12. Regarding the rejection under 35 U.S.C. 103, the combination of the cited references discloses the invention of Claim 46 as follows. Carmichael discusses floorplanning and explains that there is an agreement between the finance company and the dealer that provides that the vehicles (or other inventory) are collateral for the loan that the dealer gets from the finance company in order to purchase the vehicles (or other inventory) from the manufacturer. Because the finance company wants to be sure that it is being paid for any vehicles that are sold, the finance company continuously checks the dealer's floor to determine what merchandise is still on the floor and what has been sold. The difference between Carmichael and Applicant's invention is that in Carmichael, the finance company physically goes to the dealer to determine whether the dealer is complying with the agreement. On the other hand, in Applicant's claimed invention, the finance company does not physically go to the dealer. Rather, the finance company has the dealer electronically read encrypted identification information associated with the vehicles to determine whether the dealer is complying with the agreement. This limitation which is lacking in Carmichael is disclosed in Mercer. Mercer discloses a method of tracking and identifying vehicles on an auto dealer's lot. In one embodiment, according to Paragraph 0045 of Mercer, "a number of transmitters/receivers are positioned at strategic locations of an auto dealer's lot so that the RFID tags...on all of the vehicles can be read, regardless of where the vehicles are located on the lot." This method of identifying vehicles on the lot would provide confidence to the finance company because it can be assured that if a tag is read, the vehicle is located on the lot. Furthermore, Paragraph 0057 states that a report can be generated that shows any discrepancies between the vehicles that are supposed to be on the lot that those that are actually on the lot. This report could be provided to the finance company so that it can determine whether the dealer is complying with the agreement.

13. Furthermore, although the self audit is effectively disclosed in Mercer, which discloses that the audit is done at the second party's location without the need for the first party to physically be there, Capazario explicitly discloses performing a self-audit. Additionally, Rudolph discloses RFID tags with encrypted data as it is well known to encrypt data for security purposes.

14. It would be obvious to substitute Carmichael's method of having a finance company physically go to the dealer location and audit the vehicles with Mercer's method of electronically determining which cars are located on the dealer's lot and Capazario's method of self auditing in order to "more quickly, accurately, and efficiently label, identify, track, and inventory new and previously-owned vehicles on an auto dealer's lot." (see Paragraph 0009 of Mercer). By allowing a dealer to self-audit, the lender does not have to physically visit the dealer. But, the lender can also be assured that the self-audit is accurate because the vehicles would contain RFID tags that would track the vehicles. Additionally, it would be

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obvious to combine these references because of the rationale in KSR of simple substitution of one known element for another to obtain predictable results. Carmichael's method of having a finance company visit the dealer to audit the vehicles can be substituted with Mercer's method of electronically tracking vehicles in order to obtain the same result which is to assist a finance company in determining whether a dealer is complying with an agreement.

Claim Rejections - 35 USC § 101

15. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

16. **Claims 46, 47, 50-54, 63-72, 74-82, and 84** are rejected under 35 U.S.C. 101. Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to a machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In re Bilski et al, 88 USPQ 2d 1385 CAFC (2008); Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876).

17. An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

18. Here, Applicant's method steps fail the first prong of the new Federal Circuit decision since they are not tied to a machine and can be performed without the use of a particular machine. Thus, these claims are non-statutory since they may be performed within the human mind.

19. The mere recitation of the machine in the preamble with an absence of a machine in the body of the claim fails to make the claim statutory under 35 USC 101. Note the Board of Patent Appeals Informative Opinion Ex parte Langemyer et al.

20. To overcome this rejection, all steps that are relevant to the invention must be performed by a computer or processor.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. **Claims 46, 47, 50, 51, and 63** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Carmichael**, 1992 in view of **Mercer** et al., U.S. Patent Application Publication Number 2004/0088228 A1, and further in view of **Capazario** et al., U.S. Patent Application Publication Number 2003/0154141 A1, and further in view of **Rudolph** et al., U.S. Patent Application Publication Number 2002/0005774 A1.

Claim 46:

Carmichael discloses the limitations of:

- notifying the second party of [an audit] of the asset (see at least **Carmichael**, Page 2, Paragraph 1 ("During the 90-day period, the floorplan finance company checks the dealer's 'floor' every 30 days to determine what merchandise has been sold. This method of ensuring that the dealer meets his flooring obligation is known as 'pay-as-sold.'")).
- evaluating the audit information to determine if the second party is complying or not complying with the finance agreement based on the audit information (see at least **Carmichael**, Page 2, Paragraph 1 ("During the 90-day period, the floorplan finance company checks the dealer's 'floor' every 30 days to determine what merchandise has been sold. This method of ensuring that the dealer meets his flooring obligation is known as 'pay-as-sold.'")).

Carmichael does not explicitly disclose, but **Mercer**, however, does disclose:

- requiring the second party to use a machine to electronically read [data] from at least one identification tag associated with the self-audit (see at least **Mercer**, Paragraph 0011 ("An RFID tag encoded with vehicle-specific information may be attached to or embedded in both the window sticker and key tag label for identification and tracking purposes."); Paragraph 0033; Paragraph 0045; and Paragraph 0046).
- requiring the second party to send audit information based on the encrypted data to the first party (see at least **Mercer**, Paragraph 0011; Paragraph 0012 (Data regarding the location of a vehicle is transmitted.)).

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It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer's method of using RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

Carmichael does not explicitly disclose, but Capazario, however, does disclose:

- self-audit (see at least Capazario, Paragraph 0047 ("After the first four (4) weeks, stores that scored high in the rankings are left to self-audit their own management system.")).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Capazario's method of self-auditing with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of increasing efficiency and decreasing expenses for the first party by receiving audit information from the second party as opposed to using its own resources to gather the audit information.

Carmichael does not explicitly disclose, but Rudolph, however, does disclose:

- encrypted data (see at least Rudolph, Paragraph 0023 (The RFID tag contains an encrypted code.)).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Capazario's method of using encryption with an RFID tag with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making the data more secure.

Claim 47:

Carmichael further discloses:

- wherein the asset associated with the finance agreement is selected from the set consisting of a car, a truck, a recreational vehicle, a boat, a motorcycle, construction equipment, farm equipment, manufacturing equipment, containerized freight, art, an antique, and a collectible (see at least Carmichael,

Page 1, Paragraph 1 ("Floorplanning is the financing of dealer or distributor inventory by either a finance company or a bank. This type of inventory financing has been in existence for many years, particularly in the automotive [industry].").

Claim 50:

Carmichael does not explicitly disclose, but Mercer, however, does disclose:

- wherein the at least one identification tag includes a radio frequency identification tag (see at least Mercer, Paragraph 0011 ("An RFID tag encoded with vehicle-specific information may be attached to or embedded in both the window sticker and key tag label for identification and tracking purposes."); Paragraph 0046; Paragraph 0057; and Paragraph 0058).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer's method of using RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

Claim 51:

Carmichael does not explicitly disclose, but Mercer, however, does disclose:

- wherein the at least one identification tag includes a bar code (see at least Mercer, Paragraph 0046 ("The handheld computing device 102 is preferably a pocket PC containing a bar code scanner/reader and an RFID tag reader."); Paragraph 0050; and Paragraph 0056).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer's method of using a bar code on identification tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

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Claim 63:

Claim 63 is rejected using the same rationale that was used for the rejection of Claim 51.

23. **Claim 52** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Carmichael**, 1992 in view of **Mercer** et al., U.S. Patent Application Publication Number 2004/0088228 A1, and further in view of **Capazario** et al., U.S. Patent Application Publication Number 2003/0154141 A1, and further in view of **Rudolph** et al., U.S. Patent Application Publication Number 2002/0005774 A1, and further in view of **Hull** et al., U.S. Patent Application Publication Number 2004/0041707 A1.

Claim 52:

Carmichael does not explicitly disclose, but **Hull**, however, does disclose:

- wherein the audit information comprises a hash (see at least **Hull**, Paragraph 0057 (A hash code is incorporated in a RFID tag.)).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate **Hull**'s method of using RFID tags with a hash code to track vehicles with **Carmichael**'s method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

24. **Claims 53, 54, and 64** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Carmichael**, 1992 in view of **Mercer** et al., U.S. Patent Application Publication Number 2004/0088228 A1, and further in view of **Capazario** et al., U.S. Patent Application Publication Number 2003/0154141 A1, and further in view of **Rudolph** et al., U.S. Patent Application Publication Number 2002/0005774 A1, and further in view of **Adams** et al., U.S. Patent Application Publication Number 2003/0031819 A1.

Claim 53:

Carmichael does not explicitly disclose, but **Adams**, however, does disclose:

- wherein each of the at least one identification tag is fraud resistant (see at least **Adams**, Paragraph 0005).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Adams' method of using fraud resistant RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender. Furthermore, it would be obvious to make the tags tamper proof in order to prevent fraud such as the removal of the tag from the vehicle and making it appear that the vehicle has not been sold and is still located at the dealership.

Claim 54:

Carmichael does not explicitly disclose, but Adams, however, does disclose:

- wherein each of the at least one identification tag is self-destructing (see at least Adams, Paragraph 0005).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Adams' method of using fraud resistant RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender. Furthermore, it would be obvious to make the tags tamper proof in order to prevent fraud such as the removal of the tag from the vehicle and making it appear that the vehicle has not been sold and is still located at the dealership.

Claim 64:

Claim 64 is rejected using the same rationale that was used for the rejection of Claim 53.

25. **Claims 65, 66, 68, 70-72, and 77-79** are rejected under 35 U.S.C. 103(a) as being unpatentable over Carmichael, 1992 in view of Mercer et al., U.S. Patent Application Publication Number 2004/0088228 A1, and further in view of Rudolph et al., U.S. Patent Application Publication Number 2002/0005774 A1.

Claim 65:

Carmichael discloses the limitations of:

- evaluating the audit information by a computer to determine compliance or non-compliance with the agreement (see at least Carmichael, Page 2, Paragraph 1 ("During the 90-day period, the floorplan finance company checks the dealer's 'floor' every 30 days to determine what merchandise has been sold. This method of ensuring that the dealer meets his flooring obligation is known as 'pay-as-sold.'")).

Carmichael does not explicitly disclose, but Mercer, however, does disclose:

- initiating the self-audit by requesting an electronic reading by a machine of at least one identification tag containing [data] associated with an asset (see at least Mercer, Paragraph 0011 ("An RFID tag encoded with vehicle-specific information may be attached to or embedded in both the window sticker and key tag label for identification and tracking purposes."); Paragraph 0033; Paragraph 0045; and Paragraph 0046).
- receiving audit information based on the electronic reading by a machine of the at least one identification tag (see at least Mercer, Paragraph 0011; Paragraph 0012 (Data regarding the location of a vehicle is transmitted.)).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer's method of using RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

Carmichael does not explicitly disclose, but Rudolph, however, does disclose:

- encrypted data (see at least Rudolph, Paragraph 0023 (The RFID tag contains an encrypted code.)).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Capazario's method of using encryption with an RFID tag with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making the data more secure.

Claim 66:

Carmichael discloses the limitations of:

- evaluating the audit information by a computer to determine compliance or non-compliance with the agreement (see at least Carmichael, Page 2, Paragraph 1 ("During the 90-day period, the floorplan finance company checks the dealer's 'floor' every 30 days to determine what merchandise has been sold. This method of ensuring that the dealer meets his flooring obligation is known as 'pay-as-sold.'")).

Carmichael does not explicitly disclose, but **Mercer**, however, does disclose:

- initiating the self-audit by requesting an electronic reading by a machine of at least one identification tag containing [data] associated with an asset (see at least Mercer, Paragraph 0011 ("An RFID tag encoded with vehicle-specific information may be attached to or embedded in both the window sticker and key tag label for identification and tracking purposes."); Paragraph 0033; Paragraph 0045; and Paragraph 0046).
- receiving audit information, the audit information including data based on the electronic reading by the machine of the at least one identification tag containing the encrypted data in combination with data associated with the self-audit or data associated with the asset (see at least Mercer, Paragraph 0011; Paragraph 0012 (Data regarding the location of a vehicle is transmitted.)).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer's method of using RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

Carmichael does not explicitly disclose, but **Rudolph**, however, does disclose:

- encrypted data (see at least Rudolph, Paragraph 0023 (The RFID tag contains an encrypted code.)).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Capazario's method of using encryption with an RFID tag with Carmichael's method of floor plan financing. One of ordinary skill in the art would have

been motivated to incorporate this feature for the purpose of making the data more secure.

Claim 68:

Carmichael does not explicitly disclose, but Mercer, however, does disclose:

- wherein the data associated with the asset includes a geographic position associated with the asset (see at least Mercer, Paragraph 0011; Paragraph 0012 (Data regarding the location of a vehicle is transmitted.)).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer's method of using RFID tags to track vehicle locations with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership (i.e., is at a location other than the dealership), then that signifies that the vehicle has been sold and a payment is due to the lender.

Claim 70:

Carmichael further discloses:

- wherein the asset associated with the finance agreement is selected from the set consisting of a car, a truck, a recreational vehicle, a boat, a motorcycle, construction equipment, farm equipment, manufacturing equipment, containerized freight, art, an antique, and a collectible (see at least Carmichael, Page 1, Paragraph 1 ("Floorplanning is the financing of dealer or distributor inventory by either a finance company or a bank. This type of inventory financing has been in existence for many years, particularly in the automotive [industry].")).

Claim 71:

Carmichael does not explicitly disclose, but Mercer, however, does disclose:

- wherein the at least one identification tag includes a radio frequency identification tag (see at least Mercer, Paragraph 0011 ("An RFID tag encoded with vehicle-specific information may be attached to or embedded in both the window sticker and key tag label for identification and tracking purposes."); Paragraph 0046; Paragraph 0057; and Paragraph 0058).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer's method of using RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

Claim 72:

Carmichael does not explicitly disclose, but Mercer, however, does disclose:

- wherein the at least one identification tag includes a bar code (see at least Mercer, Paragraph 0046 ("The handheld computing device 102 is preferably a pocket PC containing a bar code scanner/reader and an RFID tag reader."); Paragraph 0050; and Paragraph 0056).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer's method of using a bar code on identification tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

Claim 77:

Claim 77 is rejected using the same rationale that was used for the rejection of Claim 70.

Claim 78:

Claim 78 is rejected using the same rationale that was used for the rejection of Claim 71.

Claim 79:

Claim 79 is rejected using the same rationale that was used for the rejection of Claim 72.

26. **Claim 67** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Carmichael**, 1992 in view of **Mercer et al.**, U.S. Patent Application Publication Number 2004/0088228 A1, and further in view

of **Rudolph** et al., U.S. Patent Application Publication Number 2002/0005774 A1, and further in view of **Tallman** et al., U.S. Patent Number 5,708,417.

Claim 67:

Carmichael does not explicitly disclose, but **Tallman**, however, does disclose:

- wherein the data associated with the self-audit includes an audit code (see at least Tallman, column 2, lines 20-30 and column 5, lines 49-50 ("The computer determines the module identification number from the identification code in the receiver signal 90.")).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Tallman's method of transmitting a identification code when identifying a location of a vehicle with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership (i.e., is at a location other than the dealership), then that signifies that the vehicle has been sold and a payment is due to the lender. In order to determine the location of a vehicle, there would have to be some way to identify the vehicle, such as an identification code or audit code.

27. **Claims 69 and 80** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Carmichael**, 1992 in view of **Mercer** et al., U.S. Patent Application Publication Number 2004/0088228 A1, and further in view of **Rudolph** et al., U.S. Patent Application Publication Number 2002/0005774 A1, and further in view of **Hull** et al., U.S. Patent Application Publication Number 2004/0041707 A1.

Claim 69:

Carmichael does not explicitly disclose, but **Hull**, however, does disclose:

- wherein the audit information comprises a hash (see at least Hull, Paragraph 0057 (A hash code is incorporated in a RFID tag.)).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Hull's method of using RFID tags with a hash code to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has

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been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

Claim 80:

Claim 80 is rejected using the same rationale that was used for the rejection of Claim 69.

28. **Claims 74, 75, 81, and 82** are rejected under 35 U.S.C. 103(a) as being unpatentable over Carmichael, 1992 in view of Mercer et al., U.S. Patent Application Publication Number 2004/0088228 A1, and further in view of Rudolph et al., U.S. Patent Application Publication Number 2002/0005774 A1, and further in view of Adams et al., U.S. Patent Application Publication Number 2003/0031819 A1.

Claim 74:

Carmichael does not explicitly disclose, but Adams, however, does disclose:

- wherein each of the at least one identification tag is fraud resistant (see at least Adams, Paragraph 0005).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Adams' method of using fraud resistant RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender. Furthermore, it would be obvious to make the tags tamper proof in order to prevent fraud such as the removal of the tag from the vehicle and making it appear that the vehicle has not been sold and is still located at the dealership.

Claim 75:

Carmichael does not explicitly disclose, but Adams, however, does disclose:

- wherein each of the at least one identification tag is self-destructing (see at least Adams, Paragraph 0005).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Adams' method of using fraud resistant RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art

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would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender. Furthermore, it would be obvious to make the tags tamper proof in order to prevent fraud such as the removal of the tag from the vehicle and making it appear that the vehicle has not been sold and is still located at the dealership.

Claim 81:

Claim 81 is rejected using the same rationale that was used for the rejection of Claim 74.

Claim 82:

Claim 82 is rejected using the same rationale that was used for the rejection of Claim 75.

29. **Claim 76** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Carmichael**, 1992 in view of **Mercer et al.**, U.S. Patent Application Publication Number 2004/0088228 A1, and further in view of **Rudolph et al.**, U.S. Patent Application Publication Number 2002/0005774 A1, and further in view of **Katagishi et al.**, U.S. Patent Application Publication Number 2003/0120745 A1.

Claim 76:

Carmichael does not explicitly disclose, but **Katagishi**, however, does disclose:

- wherein the machine used for the electronic reading is integrated in a cell phone (see at least **Katagishi**, Abstract ("the user operates a cellular phone to read information from the RFID"); Paragraph 0055; Paragraph 0058).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate **Katagishi**'s method of using a cellular phone to read an RFID tag with **Carmichael**'s method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of using a device that most people carry with them to read the tags instead of carrying a second device.

30. **Claim 84** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Carmichael**, 1992 in view of **Mercer et al.**, U.S. Patent Application Publication Number 2004/0088228 A1, and further in view of **Capazario et al.**, U.S. Patent Application Publication Number 2003/0154141 A1, and further in view of

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Rudolph et al., U.S. Patent Application Publication Number 2002/0005774 A1, and further in view of **Katagishi** et al., U.S. Patent Application Publication Number 2003/0120745 A1.

Claim 84:

Carmichael does not explicitly disclose, but **Katagishi**, however, does disclose:

- wherein the machine used for the electronic reading is integrated in a cell phone (see at least Katagishi, Abstract ("the user operates a cellular phone to read information from the RFID"); Paragraph 0055; Paragraph 0058).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Katagishi's method of using a cellular phone to read an RFID tag with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of using a device that most people carry with them to read the tags instead of carrying a second device.

Other Prior Art of Record

31. The following prior art is made of record because it is considered pertinent to Applicant's invention:

- **Carter**, U.S. Patent Number 5,563,579 (see at least column 1, lines 27-38; column 3, lines 14-29).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Rosen whose telephone number is 571-270-1850. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm, ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached at 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elizabeth H Rosen

Examiner, Art Unit 3684

/Nga B. Nguyen/

Primary Examiner, Art Unit 3684